

The 12th February, 1981

No. 9(1)81-8Lab/780.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workmen and the management of M/s Shahbad Farmers Coop. Marketing-cum-Processing Society Ltd., Shahbad.

BEFORE SH. BANWARI LAL DALAL,
PRESIDING OFFICER, LABOUR
COURT, HARYANA, ROHTAK.

Reference No. 92 of 77

between

SHRI JAGMAL SINGH, WORKMAN
AND THE MANAGEMENT OF M/S
SHAHBAD FARMERS COOP. MAR-
KETING-CUM-PROCESSING SOCIETY,
LTD., SHAHBAD

Present :

Shri Madhu Sudan for the workman.
Shri Surinder Kaushal for the management.

AWARD

This reference No. 92 of 1977 has been referred to this court by the Hon'ble Governor,—vide his order No. ID/KNL/218-77//28542, dated 2nd August, 1977 under section 10(i)(c) of the I.D. Act for adjudication of the dispute existing between Shri Jagmal Singh, workman and the management of M/s The Shahbad Farmers Coop. Marketing-cum-Processing Society Ltd., Shahbad. The term of the reference was:—

Whether the termination of services of Shri Jagmal Singh was justified and in order? If not what relief is he entitled?

On the receipt of the order of reference notices as usual were sent to the parties who appeared on 27th September, 1977 in response to the same. The workman filed his statement of claim wherein he alleged that he was working as accounts clerk since January, 1970 with the respondent. The respondent terminated his services illegally without holding any

enquiry on 28th October, 1976,—vide their order dated 10th September, 1976. The workman was previously placed under suspension,—vide Order No. 76-77/256-58, dated 10th September, 1976 on allegation of misappropriation negligence and absence etc. The applicant was not allowed the opportunity to examine the record the list of which the workman supplied to the respondent. He also alleged that the complaint against this fact was brought to the notice of the Registrar,—vide his letter, dated 28th October, 1976 sent under registered cover on 30th October, 1976 copy of which was endst. to the respondent requesting him that the case be transferred to some other offices but in the meantime the respondent terminated his services without affording him the reasonable opportunity of defence violating the principle of natural justice. The management filed their written statement. In their written statement the management has pleaded that the job of the workman was confidential requiring trust in the person as he was handling cash, maintaining ledger, promoting sale of fertilizer also maintaining stock of the society. The workman was habitual in misappropriating the accounts of the society and of committing irregularities which were pointed out in the audit note. Matter was also brought to the notice of the workman. A detailed charge sheets was also issued on 20th September, 1976. He failed to submit his explanation and the management terminated his services on 28th October, 1976. The order of termination was self-explanatory and a detailed one. The management further gives the details of various charges leading to his termination. The management further denied that the services of the workman were terminated on 28th October, 1976 and not on 10th September, 1976 as alleged by him. The management further pleaded that the services of the workman were terminated for valid and cogent reason on the charges being proved against him by the evidence in the record.

The workman controverted the pleas of the management,—vide his rejoinder reiterating his allegations as

enunciated in his statement of claim. On the basis of the pleadings of the parties the only issues in terms of the dispute as referred by the Government was framed. Shri Prem Sagar, Lecturer, C.T.I., Rohtak was examined as the sole management witness. He deposed that he was the Administrator of the respondent from 15th January, 1976 to 26th June, 1977. The workman was accounts clerk, Accountant, cashier and saleman for fertilizer. He checked and found his irregularities committed by him in his work. The manager issued a charge-sheet under his instruction and he suspended the workman. The workman did not reply the charge-sheet even after extention of the time granted for filing the same. The charges related to documents. Documents were checked and changes were found proved. Therefore, this was a case of no enquiry and the management did not conduct the enquiry. The management wanted to prove the charges on merits to which the workman representative objected but the court allowed the management to prove their case on merits. The management produced the documents and got the same exhibited and attempted to prove the various discrepancies, irregularities and act of misappropriation committed by the workman as were enumerated in the charge-sheet issued by the respondent to the workman. He found the workman guilty of all the charges and dismissed him,—vide his order dated 26th October, 1976, which was Ex. M-19 and same was received by the workman,—vide Ex. M-20. In his cross-examination he has given out that the workman was given opportunity to file his reply to the charge-sheet within 15 days and thereafter the time limit was extended for seven days more but the workman did not file the reply. The charges were based on documentary evidence and as such no enquiry was held prior to his termination. He neither specifically denied nor admitted the receipt of the letters marked A, B, C, Letters Mark D, E, F & G, he admitted to have been received in the office of the society. The same was the reply to letters mark H & I. He hesitated

in recognising and admitting the signature of the manager and accountant. On the receipt for Rs. 4,668.58 paise, dated 22nd March, 1973 by saying that he had faint idea about their signatures.

The workman examined Shri Rattan Singh, Manager, respondent Society as WW-1 and Shri Surinder Singh, clerk of the office of Assistant Registrar, Kurukshetra as WW-2 alongwith himself as WW-3. WW-1 stated that he sent his comments to the Registrar on the representation of the workman as was required by the Registrar,—vide Ex. WW-1/A and the contents therein were correct, although he has admitted that he was posted at Hissar in the year 1976. WW-2 has deposed that Ex. WW-2/A was in the record of their office which was sent to the Registrar, Chandigarh. He has given out in his cross-examination that the Assistant Registrar, Kurukshetra, conducted the enquiry in case of Jagmal Singh and submitted his report Ex. WW-2/A but there was no proceeding of enquiry are in the file. He maintained all the record of the office. There was no other file except this one. He could not say as to who appeared on behalf of the society during the enquiry or Shri Maha Singh conducted the enquiry in the society. The workman deposed as WW-3 that he could not reply the charge-sheet as the management did not allow him to inspect the records inspite of his written request. The respondent did not conduct any enquiry on the charge-sheet. After his termination enquiry was held on the direction of the Registrar. Ex. WW-2/A and WW-1/A were the findings of the enquiry officer. He placed on file the certified copies of resolution passed by the society which were mark X & Y, Z & Z-1 relating to his case. In his cross-examination the workman admitted almost all the suggestions put by the management excepting a few regarding his absence. He admitted the writings and signature on almost all the documents.

I have carefully perused the evidence and written arguments available on the

record and also heard the learned representative of both the sides. I decide the issues as under:—

ISSUE No. 1 :

The management issued a charge-sheet enlisting so many allegations for dates as back as pertaining to year 1973 but in their evidence they have suppressed facts that almost all of these allegations were considered and the workman was exonerated by the managing committee resolutions which are Mark X, Y, Z and Z-1, which were in the knowledge of the respondent while issuing the charge-sheet and also at the time of passing the order of termination. As the Managing Director was the Inspector Incharge of the society and had signed in this capacity on these abovesaid resolutions. The comments sent by the Manager of the society WW-1/A and comments, by the Assistant Registrar WW-2/A sent to the Registrar fully disprove the version of the management and support fully the case of the workman. This leads me to the conclusion that the respondent framed the charges and terminated the services of the workman having same ulterior motives and in order to victimise him. Only with this motive the management did not allow the workman to examine the record and afford him the reasonable opportunity of his defence & all at once terminated his services without waiting for his reply and without holding a regular enquiry into the allegation which is contrary to the accepted principles of natural justice. This kind

of arbitrary action of the management can never be permitted to which I cannot put my seal of confirmation. The order of termination dated 28th October, 1976 can not therefore, be justified under these circumstances and the same is, therefore, illegal and is set aside. But there are clear instances of irregularities and of misappropriation in the record admitted to have been maintained by him, he cannot escape the responsibility and the same cannot be mitigated. In consequence he cannot be allowed the benefit of full back wages. I, therefore give my award that the workman is entitled to reinstatement with continuity of service but with 50 per cent back wages. I give my award in the above terms and return the same accordingly.

Dated the 14th January, 1981.

BANWARI LAL DALAL,
Presiding Officer,
Labour Court, Haryana, Rohtak.

Endst. No. 186, dated 15th January, 1981.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour & Employment Departments, Chandigarh as required under section 15 of the I.D. Act.

BANWARI LAL DALAL,
Presiding Officer,
Labour Court, Haryana, Rohtak.

H. L. GUGNANI,
Secretary to Government, Haryana,
Labour & Employment Department.

IRRIGATION DEPARTMENT

Orders

The 17th February, 1981

No. 1632.21. Whereas the land described in the Haryana Government Notification No. 1154 2-L, dated 2nd February, 1981, issued under section 6 of the Land Acquisition Act, 1894, has been declared to be needed by the Government at public expense for public purpose, namely, for land purposes to be acquired for installing Imlotka Kiln on right side of Katcha path from Imlotka to Saupgah in village Imlotka in tehsil Dadri district Bhiwani.

Now, therefore, in exercise of the powers conferred by section 7 of the Land Acquisition Act, 1894, the Governor of Haryana hereby directs the Land Acquisition Collector, Public Works Department, Irrigation Branch, Rohtak to take order for the acquisition of the land described in specifications appended to the declaration published with the aforesaid notification.